



Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
T +1 202 637 5600
F +1 202 637 5910
www.hoganlovells.com

May 24, 2019

By Electronic Mail and First-Class Mail

Andrea Leshak, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, New York 10007-1866
leshak.andrea@epa.gov

Zolymer Luna
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
#48 Rd 165, km 1.2
Guaynabo, Puerto Rico 00968-8069
luna.zolymer@epa.gov

Re: Puerto Rico Electric Power Authority – Response to March 28, 2019 United States Environmental Protection Agency Notice of Potential Liability and Request for Information

Dear Ms. Leshak and Ms. Luna:

This letter and attachments are hereby submitted on behalf of the Puerto Rico Electric Power Authority (“PREPA”) in response to the United States Environmental Protection Agency’s (“EPA”) March 28, 2019 notice of potential liability and associated request for information pursuant to Sections 107(a) and 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) (“March 28 Request” or the “Request”) in relation to the PROTECO Site located at Road 385, Km 4.4, Bo. Tallaboa, in Peñuelas, Puerto Rico (the “PROTECO Site” or the “Site”).

As confirmed by email communications dated April 5, 2019, between EPA and PREPA, the initial deadline for responding to EPA’s request was extended until May 24, 2019. EPA further agreed to limit the scope of several requests to facilitate PREPA’s timely response and to limit the collection of irrelevant information.¹ EPA also agreed that a partial response by May 24, 2019 would be acceptable provided it was not possible for PREPA to provide a complete response by that date.²

Given the size and scope of PREPA’s operations, PREPA has engaged in considerable efforts to produce the responses and submissions below, and to ensure they are as complete and responsive to EPA’s requests as possible. However, PREPA was unable to collect all of the

¹ Email from Andrea Leshak, Office of Regional Counsel, U.S. EPA, to Hayley Fink, Hogan Lovells US LLP (May 9, 2019 13:28 EST) (on file with author).

² *Id.*

responsive information by May 24, 2019. Accordingly, this letter and appendices constitute a partial response to EPA's March 28 Request, and PREPA will seasonably supplement this response with additional information as it becomes available through rolling document productions. PREPA is committed to ensuring that it provides EPA with all responsive information at the earliest possible opportunity. PREPA is happy to discuss additional deadlines for rolling productions at EPA's convenience.

I. Objections and Qualifications

In view of the breadth of the March 28 Request, PREPA makes the following general objections and qualifications to the Request:

- PREPA objects to the Request insofar as it seeks privileged information, including any and all communications and information that are protected from disclosure by the attorney-client communication privilege, attorney work-product doctrine, the self-evaluation privilege, or any other applicable privilege or protection.
- PREPA objects to the Request to the extent it is vague, ambiguous, immaterial, irrelevant, overbroad, unduly burdensome, and beyond the scope of EPA's authority to request information pursuant to Section 104(e) of CERCLA.
- PREPA objects to the Request to the extent that it contains redundant requests, and to the extent it (i) requests information that has been provided to EPA by other persons or entities; (ii) seeks information that could be as readily located and identified by EPA as by PREPA; and (iii) seeks information that is in the public record, such as public archives and records centers.
- PREPA objects to the Request to the extent it seeks information and documents not in PREPA's possession, custody, or control.
- PREPA objects to the Request as unduly burdensome, oppressive, beyond the scope of authority of Section 104(e) of CERCLA, and not in accordance with law to the extent that it requires a narrative response when the answer to a request may be derived or ascertained from the documents produced. Where the answer to a request may be derived or ascertained from documents, PREPA has identified the documents from which the answer may be ascertained and is producing the documents with this response.
- PREPA reserves the right to supplement and revise its response, and reserves the right to assert additional objections as it continues to evaluate its response.
- PREPA has identified certain documents as containing personal privacy information and has marked such documents as such.
- In providing documents and other information, PREPA does not waive, and reserves the right to assert, any applicable defenses, including that any claims by EPA relating to issues arising from this response are barred by the applicable statute of limitation.

II. Format of Response

Notwithstanding the foregoing, and without waiving any of the foregoing qualifications and objections, below PREPA has included the relevant numbered EPA request followed by PREPA's

response. Whenever additional information or documents are referenced in a response to a request, such information and documents are expressly incorporated into the response, and identified as an appendix thereto. These documents are being sent via secure file transfer, with a folder labeled for each numbered request for which responsive documents are being produced. For instance, documents responsive to Request No. 2, will be in a folder titled "Appendix 2."

The numbers of the responses below correspond to the numbers of the information requests included in EPA's Request.

III. PREPA's Response to EPA's Information Request

Request No. 1:

Answer the following questions regarding the Company:

- a. State the correct legal name and mailing address for the Company;
- b. State the name(s) and address(es) of the President, Chief Executive Officer and the Chairman of the Board (or other presiding officer) of the Company;
- c. Identify the state/commonwealth and date of incorporation of the Company and the name of its agents for service of process in the state/commonwealth of incorporation and in Puerto Rico, if different; and
- d. Identify any successor corporations, predecessor corporations, or other entities related to the Company. If the Company is or was a subsidiary or affiliate of another corporation or other entity, identify each of those other entities' Chief Executive Officers, Presidents, and Chairpersons of the Board. Identify the state/commonwealth of incorporation and agents of service of process in the state/commonwealth of incorporation and in Puerto Rico, if different, for each entity identified in your response to this question.

Response to Request No. 1:

- a. Puerto Rico Electric Power Authority
PO BOX 364267
San Juan, PR 00936-4267
- b. Eng. José Ortiz is PREPA's Chief Executive Officer. PREPA has a Governing Board and the Chairperson of the Governing Board is Elí Díaz.

The relevant address for the Chief Executive Officer and Chairperson is provided in the Response to Request No. 1.a, above.

- c. PREPA is a public corporation of the Commonwealth of Puerto Rico. The predecessor authority of PREPA was the Puerto Rico Water Resources Authority ("Autoridad de las Fuentes Fluviales" or "AFF"), which was created by Law No. 83 of May 2, 1941. On May 30, 1979, through Law No. 57, the Puerto Rico Water Resources Authority changed its name to the Puerto Rico Electric Power Authority.
- d. PREPA is not a subsidiary or affiliate of any entity, nor does it have any subsidiaries.

Request No. 2:

State the dates during which the Company owned, operated, or leased any portion of the Facilities, and provide copies of all documents evidencing or relating to such ownership, operation, or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.

Response to Request No. 2:³

Subject to the general objections and qualifications set forth above PREPA responds as follows:

San Juan Power Plant:

PREPA acquired land for the San Juan Power Plant through the judicial process of forced expropriation. To the best of PREPA's knowledge, this process began on or about October 6, 1948. Construction was finished on the original San Juan Steam Plant in 1950, and the original units were inaugurated and began operation that same year. These original units retired in the mid-1970s. Of the currently-operational units, the steam units were built in the 1965-1969 timeframe, while the San Juan combined cycle units were built on or about 2008-2009. The San Juan Power Plant continues to operate through the present day.

Appendix 2.a contains various documentation related to PREPA's ownership and operation of the San Juan Power Plant, including:

- August 29, 1947 Puerto Rico Water Resources Authority Resolution No. 293 approving exercise of eminent domain to acquire land for San Juan Power Plant.
- October 6, 1948 Land Acquisition Approval Certification issued by Puerto Rico's Planning Board for the "Construction of a New Power Plant in San Juan, Puerto Rico."
- October 4, 1948 minutes of the Board of Directors of the Transportation Authority regarding transfer of land to Puerto Rico Water Resources Authority.
- June 1950 Puerto Rico Executive Council Resolution approving conveyance of land for the San Juan Power Plant.
- November 12, 1952 conveyance of land to Puerto Rico Water Resources Authority for operation of the San Juan Power Plant.
- 1953 deed documenting several transactions between the Puerto Rico Water Resources Authority and the Transportation Authority.⁴

See Bates 000001-000043.

³ Responses to Request No. 2 are based on the identified documents provided by PREPA and the following publicly available sources of information: PREPA, Pinceladas de Nuestra Historia, <https://aeepr.com/es-pr/qui%C3%A9nes-somos/historia> (last visited May 23, 2019); PREPA, Sistema Eléctrico, <https://aeepr.com/es-pr/qui%C3%A9nes-somos/sistema-electrico> (last visited May 23, 2019); Eugenio Latimer Torres, *Historia de la Autoridad de Energía Eléctrica* (1997).

⁴ PREPA owned a land parcel where the San Juan Power Plant, a pier, and a boardwalk were constructed. In 1953, PREPA segregated this parcel in two, and sold the parcel where the pier and boardwalk were located to the Transportation Authority. The deed also established easements in favor of PREPA such as right-of-ways for pipes, water collector, intake channel, etc. Note that the San Juan Power Plant was already in operation by 1953.

Aguirre Generating Complex:

PREPA acquired land for the Aguirre Power Complex through the judicial process of forced expropriation. To the best of PREPA's knowledge, this process began on or about May 24, 1967. Aguirre steam Units 1 and 2 entered service in 1975. The Aguirre combined cycle units entered service a few years later in 1977. The Aguirre Power Complex continues to operate through the present day.

Appendix 2.b contains various documentation related to PREPA's ownership and operation of the Aguirre Generating Complex, including:

- May 24, 1967 Land Acquisition Approval Certification issued by Puerto Rico's Planning Board for the "Acquisition of Land and Servitudes for a Thermonuclear Power Plant in the Aguirre Barrio of Salinas."⁵
- August 21, 1972 Resolution from the Superior Tribunal of Puerto Rico Expropriations.
- March 31, 1976 Resolution from the Superior Tribunal of Puerto Rico Expropriations.

See Bates 000044-000099.

Costa Sur Power Plant:

PREPA acquired land for the Costa Sur Power Plant through the judicial process of forced expropriation. To the best of PREPA's knowledge, this process began on or about September 15, 1954. Costa Sur began operations in 1959. Subsequently, in 1972 and 1973, additional units (Units 5 and 6) were inaugurated. The Costa Sur Power Plant continues to operate through present day.

Appendix 2.c contains various documentation related to PREPA's ownership and operation of the Costa Sur Power Plant, including:

- September 15, 1954 Land Acquisition Approval Certification issued by Puerto Rico's Planning Board for the "Acquisition of Land for the Construction of a Power Plant on the Beach of Guayanilla."

See Bates 000100-000101.

Palo Seco Power Plant:

PREPA acquired land for the Palo Seco Power Plant through the judicial process of forced expropriation. To the best of PREPA's knowledge, this process began on or about June 19, 1957. The first Palo Seco unit entered service in 1960, followed by a second unit in 1961. Two more units entered service in the 1970s. The Palo Seco Power Plant continues to operate through present day.

Appendix 2.d contains various documentation related to PREPA's ownership and operation of the Palo Seco Power Plant, including:

- June 19, 1957 Land Acquisition Approval Certification issued by Puerto Rico's Planning Board for the "Acquisition of Land for the Palo Seco Power Plant in Toa Baja."
- Resolutions from the Superior Tribunal of Puerto Rico Expropriations in the 1957-1964 timeframe.
- Cadastre sheets from the late 1950s-early 1960s related to land acquisition for fuel oil lines for the Palo Seco Power Plant.

See Bates 000102-000169.

⁵ Aguirre was originally planned as a nuclear plant, but these plans changed in 1974.

Request No. 3:

Indicate whether the Company has ever operated at a location other than the Facilities. If yes, provide the correct names and addresses of the Company's other facilities where the Company carried out its operations.

Response to Request No. 3:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

PREPA operates numerous other facilities in addition to the four Facilities. These facilities include technical operations offices, regional offices, hydro-gas generation plants, warehouses, mechanical workshops, transmission and distribution infrastructure, among others. PREPA's transmission system consists of approximately 2,478 miles of 230 kV and 115 kV transmission lines, and 38 kV sub-transmission lines. PREPA also has 48 transmission centers. In terms of distribution, PREPA's distribution lines total around 31,446 air miles and 1,723 underground miles. This system includes approximately 293 substations and 26 technical operations offices.⁶

EPA agreed to limit the scope of this request to the 1975 and 1999 timeframe, and the four Facilities identified, as well as facilities for which PREPA received a RCRA ID number during this time period. However, in its response, PREPA has also included PREPA's hydro-gas facilities, as a document indicates that several hydro-gas facilities may have sent waste to the PROTECO Site. See Bates 001932-001962.

Appendix 3 contains a list of relevant PREPA facilities and the addresses for those facilities. Appendix 3 is attached to this response as Attachment A. In addition to the four Facilities, this list includes the following facilities that obtained RCRA ID numbers in the 1975-1999 timeframe: PREPA Neos Building, PREPA Cambalache Station, and the PREPA Regional Offices for the Arecibo, Bayamon, Carolina, Mayaguez, Ponce, and San Juan Regions. The RCRA ID numbers for each of these regional offices also covered the associated PREPA Technical Operations Offices in each region. Accordingly, PREPA also lists the names and addresses of the Technical Operations Offices affiliated with each of the regions. There are 26 Technical Operations Offices in total. Finally, Appendix 3 also lists the names and addresses of PREPA's hydro-gas power plants which may have sent some waste to the PROTECO Site: Mayaguez, Yabucoa, Dagua, Jobos, and Vega Baja.

Request No. 4:

Describe in detail the nature of the business and the operations conducted at the Facilities and at any location identified in response to Request #3, above, during the period that the Company operated there. Provide a brief description of the Company's operations at each facility including:

- a. The date such operations commenced and concluded; and
- b. The types of work performed at each facility, including but not limited to the industrial, chemical, or institutional processes and treatments undertaken at each facility.

⁶ See PREPA, Sistema Eléctrico, <https://aeepr.com/es-pr/qui%C3%A9nes-somos/sistema-electrico> (last visited May 23, 2019).

Response to Request No. 4:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

PREPA is a public utility corporation and its facilities are dedicated to the generation, transmission, and distribution of electric energy. Appendix 3 contains a description of the operations conducted and operating dates for the relevant PREPA facilities identified in Request No. 3 above. Note that PREPA is still collecting information responsive to this request, particularly with regard to the date operations commenced at each facility. PREPA will seasonably supplement its response when it is able to obtain this information.

Per PREPA's agreement with EPA, the same time and facility limitations referenced in the Response to Request No. 3 apply to this response, as well.

Request No. 5:

Describe how the Company came to possess the hazardous substances that came to be located at the Site.

Response to Request No. 5:

PREPA objects to this question as vague. Nonetheless, subject to the general objections and qualifications set forth above PREPA responds as follows:

Like many power companies and industrial operations throughout the United States, PREPA uses commercially-available compounds as part of its daily operations, which EPA has classified as falling within the class of compounds considered "hazardous substances."

PREPA comes into possession of these compounds, because they are commercially available and necessary to ensure the provision of reliable power to the citizens of Puerto Rico.

Request No. 6:

List all hazardous substances used, generated, treated, stored, disposed of, manufactured, recycled, recovered, treated, or otherwise processed during the Company's operations at the Facilities.

Response to Request No. 6:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

Appendix 6 provides a list responsive to the above request and is attached to this response as Attachment B.

Please also see Appendix 6 for a 1990 inventory of substances utilized at the San Juan Power Plant. Note that this list is not limited to hazardous substances and may include substances that are not hazardous. See Bates 004271-004302.

Request No. 7:

List and fully describe all waste streams generated from the Company's operations, including solid, liquid, or any other type of waste.

Response to Request No. 7:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

See Appendix 7 for a list and description of PREPA waste streams responsive to the above request, as well as information regarding handling and disposal practices for such waste streams. Appendix 7 is attached to this response as Attachment C.

Note that EPA agreed to limit this request to waste streams generated between 1975 and 1999 at the four Facilities and the facilities for which PREPA received a RCRA ID number. EPA also agreed to limit this request to waste streams involving hazardous substances, hazardous wastes, and industrial wastes transported off-site for disposal, treatment, or storage.

Request No. 8:

Describe in detail the handling, storage, and disposal practices employed by the Company for each waste stream resulting from the Company's operations.

Response to Request No. 8:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

See response to Request No. 7 above and the information included in Appendix 7. Please note that per our agreement with EPA, the limitations referenced in Response to Request No. 7 regarding the relevant timeframe, facilities, and waste streams apply to this request as well.

Request No. 9:

Identify all individuals who had responsibility for the Company's environmental and waste management decisions between 1975 and 1999 (e.g., responsibility for decisions regarding the disposal, treatment, storage, recycling or sale of the Company's hazardous substances, hazardous wastes, and industrial wastes).

- a. Provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position, and if applicable, the date of the individual's resignation or termination.
- b. Provide the nature of the information possessed by each such individual concerning the Company's waste management.

Response to Request No. 9:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

Below PREPA provides information related to individuals who had responsibility for PREPA's environmental and waste management decisions between 1975 and 1999. Please see Appendix 9 for job descriptions associated with the positions held by these personnel, which provide information regarding their duties and the nature of the information each individual would have possessed. Note that PREPA's human resources department is still identifying the names of personnel and some of the details requested by EPA, including the dates in which some of the individuals performed the identified duties and dates of termination, among other things. PREPA will supplement its response with additional available information when it completes the information gathering process.

Individuals with responsibility for environmental matters at Costa Sur Power Plant:			
Name	Job Title	Start Date	Termination Date
Raul Rosado	Plant Head		
Pascual Ortiz	Plant Head	04/09/1972	04/14/2001
Benjamin Pagán	Chief Chemist		
William Santiago	Chief Chemist	07/30/1972	01/18/2003
Hector Correa	Chief Chemist	08/06/1984	05/03/2010
Rosendo Vázquez	Environmental Advisor	03/25/1972	01/12/2011

Individuals with responsibility for environmental matters at Aguirre Power Complex:			
Name	Job Title	Start Date	Termination Date
Ivan Cora	Plant Head	08/07/1977	01/12/2008
Juan F. Alicea	Plant Head	06/15/1983	01/14/2009
Giovanni Rodriguez	Chemist Supervisor/ Environmental Advisor	09/05/1989	08/15/2016
Jaime Rodriguez	Chemist Supervisor		
Leonardo Rodriguez	Chemist Supervisor/ Regulatory Compliance Supervisor	08/06/1988	07/15/2017
Angel Lugo	Chemist Supervisor/ Environmental Advisor		
Bienvenido Rodriguez	Plant Head		

Individuals with responsibility for environmental matters at Palo Seco Power Plant:			
Name	Job Title	Start Date	Termination Date
Raul Ayala	Plant Head		
Josue Colon	Plant Head	01/03/1988	02/02/2013
Otto Garcia	Plant Head		
Jaime Rosario	Chemist Supervisor		

Moises Soto	Environmental Advisor	08/13/1972	03/31/2001
-------------	-----------------------	------------	------------

Individuals with responsibility for environmental matters at San Juan Power Plant:			
Name	Job Title	Start Date	Termination Date
Pedro Espina	Chief Chemist		
Richard Concepción	Environmental Advisor		

Individuals in Division of Contracts and Technical Services for Electric System / Electric Directorate System:			
Name	Job Title	Start Date	Termination Date
Edwin Miranda	Head, Technical Services Division	07/14/1969	02/01/2003
Jose del Valle	Head, Technical Services Division	10/11/1970	04/11/2001
Paul Ruiz	Chief Chemist	12/02/1971	01/18/2003
Pedro Polanco	Chemist Supervisor/Chief Chemist/ Env. Affairs Superintendent	1986	Retirement on 05/31/2019

Individuals in Division of Environmental Protection and Quality Reliability:			
Name	Job Title	Start Date	Termination Date
Francisco López	Head Environmental Division	01/19/1970 01/25/2009	08/05/2000 10/15/2011
Myrna Massanet	Substance and Waste Management Supervisor	01/17/1984	01/14/2014
Juan Alcaraz	Compliance Programs Supervisor, Substances and Wastes	07/18/1972	03/01/2003
Enrique Díaz	Compliance Programs Supervisor, Substances and Wastes	05/10/1973	02/05/2000

Request No. 10:

For each type of hazardous substance, hazardous waste, and industrial waste used or generated by the Company, describe the Company's agreements or other arrangements for its disposal, treatment, storage, recycling or sale.

- Provide any agreement and document, including waste logs, journals, manifests, or notes, related to any transfer of hazardous substances, hazardous wastes, and industrial wastes from the Company's Facility that came to be located at the Site.
- Provide all correspondence and written communications between the Company and each owner/operator of the Site regarding the Company's hazardous substances, hazardous wastes, and industrial wastes that came to be located at the Site.

Response to Request No. 10:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

- a. See Appendix 10.a for agreements, manifests, waste logs, and other documents concerning waste transported to the PROTECO Site. Within Appendix 10.a, PREPA has included separate folders for agreement, manifests, logs, and other documents for EPA's ease of reference.

PREPA is aware of several agreements with PROTECO for disposal of non-hazardous sludge, other non-hazardous waste, and asbestos. These included:

- Service contract for the disposal of non-hazardous sludge, dated June 27, 1987. See Bates 000194-000206.
- Service contract for the disposal of non-hazardous sludge, dated August 21, 1990. See Bates 000210-000223.
- 1992 amendment (to August 21, 1990 contract) to expand contract to cover other non-hazardous waste. See Bates 000224-000232.
- A contract between PREPA and PROTECO, referred to as Contract TS-36-1996, dated January 10, 1997. PREPA has been unable to locate a copy of this contract, but has located two amendments to the contract. See Bates 000233-000237. The second amendment references the closure of operations at the PROTECO site in April 1999 and describes the replacement of PROTECO with a different contractor.
- In various documents, there are also references to additional contract numbers: TS-16-1993 and TS-01-1995. See Bates 002137-002140, 002150-002197. PREPA has been unable to locate these contracts.
- Purchase Order, dated April 11, 1990, providing for transport and disposal of asbestos waste from the Facilities and other locations. See Bates 000207-000209.

In addition to the above agreements, PREPA is providing manifests, logs, and other documents concerning waste that came to be located at the PROTECO Site. PREPA notes that many of these documents are non-hazardous waste manifests or expressly state that they concern "non-hazardous" waste. However, PREPA has nevertheless provided them to EPA because they relate to the PROTECO site. PREPA emphasizes that its production of these documents (and any other documents produced with this response) should not be interpreted as an indication that these documents relate to hazardous waste or hazardous substances.

- b. Please see Response to No. 10.a above. See also Appendix 10.b for additional documentation responsive to this request. Note that, given the overlap between Request Nos. 10.a and 10.b, documentation in Appendix 10.b may also be responsive to Request No. 10.a, and vice versa.

Request No. 11:

Provide agreements and documents related to the following, including waste logs, journals, manifests, or notes, as set forth below:

- a. The locations where the Company sent each type of hazardous substance, hazardous waste, and industrial waste for disposal, treatment, or recycling;
- b. List of Waste Transporters used by the Company;

- c. For each type of hazardous substance, hazardous waste, and industrial waste, specify which Waste Transporter picked it up;
- d. For each type of hazardous substance, hazardous waste, and industrial waste, state how frequently each Waste Transporter picked up such waste;
- e. For each type of hazardous substance, hazardous waste, and industrial waste, provide the volume picked up by each Waste Transporter (per week, month, or year);
- f. For each type of hazardous substance, hazardous waste, and industrial waste, identify the dates (beginning & ending) such waste was picked up by each Waste Transporter;
- g. Indicate the ultimate location for each type of hazardous substances, hazardous waste, and industrial waste. Provide all documents indicating the ultimate disposal/ recycling/ treatment location for each type of hazardous substance, hazardous waste, and industrial waste;
- h. Describe how the Company managed pickups of each hazardous substance, hazardous waste, and industrial waste including but not limited to:
 - i. The method for inventorying each type of hazardous substance, hazardous waste, and industrial waste;
 - ii. The method for requesting each type of hazardous substance, hazardous waste, and industrial waste to be picked up;
 - iii. The identity of the Waste Transporter employee/agent contacted for pickup of each type of hazardous substance, hazardous waste, and industrial waste; and
 - iv. The amount paid or the rate paid for the pickup of each type of hazardous substance, hazardous waste, and industrial waste;
- i. Identify the individual or organization that selected the location where each of the Company's wastes were taken. Describe the basis for and provide any documents supporting the answer to this Request.

Response to Request No. 11:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

Please note that EPA agreed to limit the scope of this request to hazardous substances, hazardous wastes, and industrial wastes generated between 1975 and 1999 by the four Facilities and those facilities for which PREPA received a RCRA ID number, and which came to be located at the PROTECO Site. However, EPA also requested that if PREPA incidentally collected additional information within the scope of the original request (e.g., documentation unrelated to the PROTECO site) that this information also be provided. Accordingly, PREPA has provided some information that is not related to the PROTECO site as noted below.

- a. As noted above, EPA agreed to narrow Request No. 11 to the PROTECO Site. Therefore, the only location directly relevant to the request is the PROTECO Site. However, EPA requested that PREPA provide information related to other sites that was incidentally collected as a part of PREPA's response to this Request. To this end, PREPA provides documents relevant to disposal locations other than the PROTECO Site in Appendix 11.a.

In further response, PREPA also notes that the regional and technical operations offices obtained RCRA ID numbers between 1996 and 1998 largely due to generation of

universal waste (i.e., used lamps). These universal wastes were generally transported to an offsite recycling company in the mainland United States.

- b. See Responses to Request Nos. 10 and 11.a above. Appendix 10 contains manifests and other documentation that list the transporters used by PREPA in connection with the PROTECO Site. Appendix 11.a contains manifests and other documents that list transporters used in connection with various non-PROTECO sites.

See also Appendix 11.b for a list of known waste transporters used to haul materials to or from the Aguirre Power Complex (Bates 002130-002133).

- c. See Response to Request No. 11.b provided above. Manifests provided by PREPA in response to Requests No. 10 and 11 describe which transporters picked up which wastes.
- d. See Responses to Request Nos. 10 and 11.a above. Appendix 10 contains manifests, logs, and other communications associated with the PROTECO site that provide information on when that waste was picked up or received by PROTECO. These documents are contained in Appendix 10. In general, for sludge waste, agreements with PROTECO indicate that sludge waste was generally removed, transported, and disposed of on an annual basis. See Bates 000194-000206, 000210-000223. To the best of PREPA's knowledge, PROTECO picked up other waste from PREPA facilities on an as-needed basis with no set frequency rather than on a pre-determined schedule. For this other waste, the frequency depends on the volume stored or the frequency of its generation.

Appendix 11.a contains manifests and other documents that provide information on when wastes were picked up to be transported to various non-PROTECO sites.

- e. See Responses to Request Nos. 10 and 11.a above. Appendix 10 contains manifests, logs, and other communications associated with the PROTECO site that provide information on the volume of waste picked up by PROTECO. Appendix 11.a contains information regarding waste volumes for wastes transported to non-PROTECO sites.
- f. See Responses to Request Nos. 10 and 11.a above. Appendix 10 contains manifests, logs, and other communications associated with the PROTECO site that provide information on the dates waste was picked up or received by PROTECO. Appendix 11.a contains manifests and other documents provide such dates in connection with waste transported to various non-PROTECO sites.
- g. See Responses to Request Nos. 10 and 11.a above. Appendix 10 contains manifests and logs associated with the PROTECO site that provide information on the destination of wastes. Appendix 11.a contains manifests and other documents that provide such destination information with respect to various non-PROTECO sites.
- h. See Responses to Request Nos. 10 and 11 above, and Appendices 10 and 11 for documents responsive to this request.
 - i. Please see Appendix 10.a for waste logs inventorying sludge waste, as well as Appendix 10.b for communications with PROTECO logging waste that was received by PROTECO from PREPA.
 - ii. Please see Appendix 11.h.ii for faxes/letters to PROTECO from PREPA requesting mobilization of PROTECO to perform services.

- iii. Please see Response to Request No. 11.h.ii above. Please see also manifests contained in Appendices 10 and 11 for further information on waste transporters that were contacted for pickup.
- iv. Please see Appendix 11.h.iv for invoices, a purchase order report, and spreadsheet of payments made to PROTECO in the 1990-1999 timeframe. See 002141-002197. The Excel sheet containing payment information was produced by Mr. Jose Roque, PREPA's Treasurer, with the assistance of PREPA's Corporate Information and Strategy Office. Please see also Appendix 10.a for additional payment information contained in PREPA agreements with PROTECO. See Bates 000194-000232.
- i. The PREPA Production Division (the name it was known as at that time) was responsible for preparing and administering PROTECO contracts. See Appendix 10.a for PREPA agreements with PROTECO, which support this response. See Bates 000224-000232. This division is now known as the Maintenance and Technical Services Division. PREPA notes that, to the best of its knowledge, during much of the relevant timeframe, the PROTECO Site was the only industrial landfill in Puerto Rico that was authorized by PREQB and EPA.

Request No. 12:

If not already provided, specify the dates and circumstances when the Company's hazardous substances, hazardous wastes, and/or industrial wastes were sent, brought, or moved to the Site, and identify the names, addresses, and telephone numbers of the person(s) making arrangements for the containers (e.g. 55-gallon drum, dumpster, etc.) holding hazardous substances, hazardous wastes, and/or industrial wastes to be sent, brought, or transported to the Site. Please also provide all documents that support or memorialize the answer to this Request.

Response to Request No. 12:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

Please see responses above to Requests Nos. 10 and 11. See Appendices 10-11 for manifests, logs, and other communications potentially responsive to this request. Please note that, per our agreement with EPA, this response is limited to the timeframe between 1975 and 1999.

Request No. 13:

Identify, describe, and provide all documents that refer to or relate to the following:

- a. The nature, including the chemical content, characteristics, physical state (e.g. solid, liquid), and quantity (volume and weight) of all hazardous substances, hazardous wastes, and industrial wastes involved in each arrangement transferring materials from any facility owned or operated by the Company (including the Facility) to any other facility;
- b. In general terms, the nature and quantity of the non-hazardous substances involved in each such arrangement;

- c. The hazardous substances being mixed or combined with other hazardous substances or non-hazardous substances for each such arrangement. Indicate whether such mixing or combining is common in the industry. Indicate whether the Company was ever asked to stop mixing or combining the hazardous substances with the non-hazardous substances;
- d. Other materials other than the hazardous substances that were involved in the transaction;
- e. The condition of the transferred material containing hazardous substances when it was stored, disposed of, treated, or transported for disposal or treatment;
- f. The markings on and type, condition, and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment; and
- g. All tests, analyses, analytical results, and manifests concerning each hazardous substance, hazardous waste, and industrial waste involved in each transaction. Include information regarding who conducted the test and how the test was conducted (batch sampling, representative sampling, splits, composite, etc.).

Response to Request No. 13:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

Please note that EPA agreed to narrow the scope of this request to hazardous substances, hazardous wastes, and industrial wastes generated between 1975 and 1999 by the four Facilities and those facilities for which PREPA received a RCRA ID number, and that came to be located at the PROTECO Site. However, EPA also requested that if PREPA incidentally collected additional information within the scope of the original request (e.g., documentation unrelated to the PROTECO site) that this information also be provided. Accordingly, PREPA has provided some information that is not related to the PROTECO site as noted below.

- a. Chemical content, characteristics, and physical state can be seen in documents included in Appendix 13. Volume and weight information is contained in the manifests, logs, and other documentation contained in Appendices 10 and 11.

Note that that not all documents relate to wastes that were sent to the PROTECO, consistent with EPA's request that PREPA provide documents unrelated to PROTECO Site that were responsive to the original information request and that were incidentally collected.

- b. As noted above, many of the wastes transferred off-site from PREPA to PROTECO were expressly identified as non-hazardous wastes. Information regarding the nature and quantity of such wastes is contained in the manifests, logs, and other documentation contained in Appendix 10.
- c. PREPA has not located information responsive to this request.
- d. This request appears to be redundant with Request No. 13.b above. Please see Appendix 10 for information regarding the types of wastes and materials described in

manifests, logs, and other documentation therein. PREPA has not located additional information responsive to this request.

- e. Transferred material would have been in a liquid, semi-solid, or solid state.
- f. Hazardous materials were typically contained in DOT Drums (1A1 or 1A2), 20 cubic yd. containers, or tank trucks.
- g. See Appendix 13 for documents relating to waste characterization.

Request No. 14:

Indicate how long the Company has had a relationship with the owner(s) and/or operator(s) of the Site.

Response to Request No. 14:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

To the best of PREPA's knowledge, its relationship with PROTECO, and its predecessor Servicios Carbareon, began in 1981 and terminated in 1999.

PREPA has identified a waste logbook for the San Juan Power Plant, which indicates that PREPA had a relationship with Servicios Carbareon starting in 1981, and subsequently with PROTECO until 1999. See Bates 001777-001807.

Moreover, as noted above, a 1999 amendment to Contract TS-36-1996 references the closure of operations at the PROTECO site in April 1999 and describes the replacement of PROTECO with a new contractor. See Bates 000235-000237.

Request No. 15:

Identify any individuals, including former and current employees, who may be knowledgeable of the Company's operations and practices concerning handling, storage, and disposal of hazardous substances

Response to Request No. 15:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

The below table identifies the individuals responsive to this request:

NAME	TITLE	ADDRESS	COMMENT
Brenda Aponte	Manager, Substance and Waste Management Dept.	Puerto Rico Electric Power Authority Environmental Protection and Quality Assurance Division PO Box 364267 San Juan PR 00936-4267	Current Employee
Freddie Rodriguez	Regulatory Compliance Supervisor	"	Current Employee
Pedro Polanco	Superintendent, Environmental Affairs Engineering and Technical Services Division	"	Current Employee
Otilio Reyes	Supervisor Chemist San Juan Steam Plant	Puerto Rico Electric Power Authority San Juan Steam Plant Rd 28 Mercado Central Ave. San Juan PR 00922	Current Employee
Nyrka Rosario	Regulatory Compliance Supervisor	"	Current Employee
Lidia Colon	Regulatory Compliance Supervisor	Puerto Rico Electric Power Authority Palo Seco Steam Plant Rd 165 Km 31.8 Toa Baja PR 00976	Current Employee
Luis Carrillo	Supervisor Chemist Palo Seco Steam Plant	"	Current Employee
Renecito Pabon	Regulatory Compliance Supervisor	Puerto Rico Electric Power Authority Aguirre Generating Complex Rd 3 Km 152.3 Salinas PR 00704	Current Employee
Waleska Rodriguez	Supervisor Chemist Aguirre Steam Plant	"	Current Employee
Heriberto Mattei	Regulatory Compliance Supervisor	Puerto Rico Electric Power Authority Costa Sur Steam Plant Rd 127 Km 15.7 Guayanilla PR 00656	Current Employee
Astrid Vazquez	Supervisor Chemist Costa Sur Steam Plant	"	Current Employee
Tania Dominguez	Regulatory Compliance Supervisor	Puerto Rico Electric Power Authority Mayaguez Gas Turbine Rd 3341 km 1 Mayaguez PR 00680	Current Employee

Request No. 16:

Please provide all documents, if not already requested above, that support your responses to Requests #1 - #15, above.

Response to Request No. 16:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

Relevant documents have been provided in response to the above questions, as indicated in the respective responses.

Request No. 17:

If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:

- a. The Company's document retention policy between 1975 and 2018;
- b. A description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction;
- c. A description of the type of information that would have been contained in the documents;
- d. The name, job title, and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents, the person(s) who would have been responsible for the destruction of these documents, and the person(s) who had and/or still have the originals or copies of these documents; and
- e. The names and most current address of any person(s) who may possess documents relevant to this inquiry.

Response to Request No. 17:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

The documents provided in response to the above requests were obtained from PREPA's environmental files located at the Aguirre Power Complex, the San Juan Power Plant, and PREPA's Environmental Protection Division (Substances and Wastes Management Department). Palo Seco Power Plant records were destroyed by a rupture of a water pipe in 2008, while the Costa Sur Power Plant does not have information related to PROTECO in its files.

PREPA does not have knowledge of documents potentially responsive to this request as no longer available, except as described above in connection with the Palo Seco Power Plant water pipe rupture or in accordance with PREPA's document retention policies or as otherwise described in this response.

- a. See Appendix 17 for PREPA's document retention policies in place from 1980 to the present day. Appendix 17 contains three document retention policies from 1980, 1990, and 2010. See Bates 003326-003516. To the best of PREPA's knowledge, and as the 1990 manual shows, the following relevant policies applied until they were superseded by the 2010 policy.

Document Category	Active	Inactive	Disposition After
Contracts (leases and services)	During validity	5 years	Validity + 5 years
Communications with agencies	5 years	Permanently	Permanently
Monthly PCB reports	5 years	5 years	10 years
Lab reports on contamination control re: discharge permits	5 years	--	5 years
Asbestos sampling results	3 years	2 years	5 years
Documents related to toxic substances	3 years	2 years	5 years
Insurance Policies	During validity + 3 years	--	During validity + 3 years

As of 2010, the new retention policy provides that the following relevant policies apply:

Document Category	Active	Inactive	Disposition After
Contracts (copies of service orders)	Permanently	--	--
Records of PCB spills	Permanently	--	--
Manifests	Permanently	--	--
Work related to asbestos activities	Permanently	--	--
Insurance Policies	During validity + 3 years	5 years	Validity + 8 years

For more information and additional types of document categories, please refer to the policies in Appendix 17.

- b. As is relevant to this request, in 2008, a waterline broke at the Palo Seco Power Plant, destroying many of the documents stored at that facility. The destroyed documents may have included documents responsive to this request, as described in PREPA's response to Request No. 17.c, below.

In addition, the staff at the Costa Sur Power Plant was unable to locate certain documents, including manifests and waste logs for the relevant timeframe; however, given the age of the documents and the terms of prior document retention policies, PREPA does not have reason to believe that the documents were improperly destroyed.

- c. The documents destroyed due to the waterline break at the Palo Seco Power Plant may have contained manifests, waste logs, and other documentation similar to that provided for the Aguirre and San Juan Power Plants.

- d. PREPA does not have knowledge of such persons at this time. PREPA will supplement its response if relevant information becomes available.
- e. PREPA does not have knowledge of persons who would have copies of any destroyed records.

Request No. 18:

Please provide copies of the Company's financial statements, shareholder's reports, financial audits, or other financial reports showing its assets, profits, liabilities, and current financial status for the last five years.

Response to Request No. 18:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

See Appendix 18 for PREPA's financial statements from 2012 through 2016. See Bates 003517-004093. PREPA's financial statements ending June 30, 2017 will be available by the end of May 2019, and PREPA will provide them as a part of a supplemental production to EPA.

In addition to the financial statements, PREPA has also included its FY 2019 fiscal plan and FY 2018 and 2019 budgets submitted to the Financial Oversight and Management Board for Puerto Rico ("FOMB"), as these documents provide additional information about PREPA's current financial status. See Bates 004094-004209. Additional information regarding PREPA's financial status is publicly available on the FOMB's website at <https://oversightboard.pr.gov/documents/>.

Request No. 19:

List and provide a copy of all agreements or contracts, including but not limited to insurance policies and indemnification agreements, held or entered into by the Company or its parent corporation(s), subsidiary, or subsidiaries that could indemnify it against any liability that it may have under CERCLA for releases or threatened releases of hazardous substances at and from the Facility. In response to this Request, please provide not only those insurance policies and agreements that currently are in effect, but also provide those that were in effect during the period(s) when any hazardous substances, hazardous wastes, and/or industrial wastes may have been released or threatened to be released into the environment at or from the Facility.

Response to Request No. 19:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

PREPA's had several service contracts with PROTECO for the disposal of sludge and non-hazardous materials that contained indemnity clauses. See Bates 000194-000206, 000210-000223.

Apart from the agreements referenced above, PREPA has not identified additional information or documentation responsive to this request. PREPA sought responsive information to Request No. 19 from PREPA's insurance office. However, after investigating its files and corroborating with PREPA's previous insurance broker, Fulcrum Insurance (formerly First Insurance), PREPA's insurance office confirmed, to the best of its knowledge, that PREPA does not have in place environmental insurance policies that would have covered the use of the facility or the PROTECO Site during the time periods

identified in the Request. In general, the policy of PREPA has been to retain environmental risk except for obtaining coverage for said risk in relation to the construction of PREPA's own facilities by means of the Owner Controlled Insurance Program ("OCIP") and the limited coverage offered by the OIL Policy in excess of \$300 million in direct damage to Property.

In accordance with the foregoing, PREPA has no knowledge of insurance claims in relation to the PROTECO landfill, nor of agreements or contracts unrelated to insurance to which the Request refers.

Please see Appendix 19 for relevant documentation (Bates 004270).

Request No. 20:

State whether any claim or claims have been made by the Company to any insurance company for any loss or damage related to operation at the Site, and if so, identify each claim by stating the name of the claimant, the name and address of the insurance company, the policy number, the named insured on the policy, claim number, date of the claim, amount of the claim, the specific loss or damage claimed, the current status of the claim, and the amount, date, and recipient of any payment made on the claim.

Response to Request No. 20:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

See Response to Request No. 19 above. PREPA is unaware of any claims.

Request No. 21:

If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

Response to Request No. 21:

Subject to the general objections and qualifications set forth above PREPA responds as follows:

PREPA has not identified additional responsive information at this time.

Request No. 22:

State the name, title, and address of each individual who assisted or was consulted in the preparation of the response to this Request for Information. In addition, state whether this person has personal knowledge of the information in the answers provided.

Response to Request No. 22:

NAME	TITLE	ADDRESS	COMMENT
Daly Sanchez	PREPA's Auxiliar Treasurer	PREPA PO Box 364267 San Juan PR 00936-4267	Personal Knowledge of Response to Request 18 (Financial Statements)
Freddie Rodriguez	Regulatory Compliance Supervisor	"	Personal Knowledge
Brenda Aponte	Manager, Substances and Waste Management Department	"	
Luisette Rios	Environmental Protection and Quality Assurance Division Head	"	
Sammy Rodriguez	PREPA's Risk Administrator	"	Personal Knowledge of Responses to Requests 19 and 20
Pedro Polanco	Superintendent, Environmental Affairs Engineering and Technical Services Division	"	Personal Knowledge
Otilio Reyes	Supervisor Chemist San Juan Steam Plant	PREPA San Juan Steam Plant Rd 28 Mercado Central Ave. San Juan PR 00922	Personal Knowledge
Nyrka Rosario	Regulatory Compliance Supervisor	"	
Lidia Colon	Regulatory Compliance Supervisor	PREPA Palo Seco Steam Plant Rd 165 Km 31.8 Toa Baja PR 00976	
Luis Carrillo	Supervisor Chemist Palo Seco Steam Plant	"	
Renecito Pabon	Regulatory Compliance Supervisor	PREPA Aguirre Generating Complex Rd 3 Km 152.3 Salinas PR 00704	
Waleska Rodriguez	Supervisor Chemist ASP	"	

NAME	TITLE	ADDRESS	COMMENT
Heriberto Mattei	Regulatory Compliance Supervisor	PREPA Costa Sur Steam Plant Rd 127 Km 15.7 Guayanilla PR 00656	
Astrid Vazquez	Supervisor Chemist Costa Sur Steam Plant	"	
Tania Dominguez	Regulatory Compliance Supervisor	PREPA Mayaguez Gas Turbine Rd 3341 km 1 Mayaguez PR 00680	
Adam M. Kushner	Partner	Hogan Lovells US LLP 555 13th St. NW Washington, DC 20004	
Hayley J. Fink	Senior Associate	"	
Hillary Neger	Associate	"	

The certification requested in the March 28 Request is attached hereto.

PREPA stands willing to discuss the foregoing responses and its appendices with EPA at a mutually convenient time

Respectfully submitted,



Adam M. Kushner
Partner
Hogan Lovells US, LLP
555 Thirteenth Street, NW
Washington, DC 20004
Telephone: 202-637-5724
adam.kushner@hoganlovells.com

Enclosures

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State/Commonwealth of Puerto Rico

County/Municipality of San Juan

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

Freddie Rodriguez

NAME (print or type)

Regulatory Compliance Supervisor

TITLE (print or type)

[Signature]

SIGNATURE

Affidavit Number 490
Answer to Request for
Information about
PROTEO site in Peñuelas, PR

Sworn to before me this

24 day of May 2019.

[Signature]
Notary Public



EXENTO PAGO ARANCEL
LEY 47
4 DE JUNIO DE 1982